

REMARKS

Claims 1, 5, and 7-24 remain in this application. Claims 2-4 and 6 were previously canceled. Claims 1 and 21-23 are hereby amended. All other claims remain the same. Reconsideration of the claims as presented is requested.

Subsection f. of claim 1 has been amended to further specify “at least one node is a ~~server~~ or computer program storage device readable by a computer, tangibly embodying a computer program or instructions executable by the computer to perform method steps for providing a payment processing gateway, a transaction client logic engine, a third party fee calculation client logic engine, or a third party fee fulfillment client logic engine.” Applicants submit that no new matter has been added by way of amendment. Support for the added matter is found in the specification as originally filed wherein any one or more of the client logic engines and payment processing gateway can be installed on a device with computer readable medium.

Claim 1 has also been amended to specify, “the payment processing gateway is on a node different than the nodes of transaction client logic engine, the third party fee calculation client logic engine, and the third party fee fulfillment client logic engine.” Applicants submit that no new matter has been added by way of amendment. Support for the added matter is found in the specification as originally filed (pg. 20, line 28 to pg. 21, line 8; figures).

Claims 21-23 have been amended to specify that the payment processing gateway is on a node different than the node of each of the respective client logic engines of claims 21-23. Applicants submit that no new matter has been added by way of amendment. Support for the added matter is found in the specification as originally filed (pg. 24, ln 21 to pg. 26, ln 3; pg. 28, ln 12-28; FIG. 3).

Claims 1, 5, and 7-20 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter for failure to recite computer-readable medium. Insofar as it may apply to the present claims, this rejection is traversed.

Claim 1 has been amended to as indicated above.

Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

Claims 1, 5 and 7-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. (U.S. Publication No. 2003/0093320) in view of Agee et al. \*(U.S. Publication No. 2003/0097303). Examiner states, "Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other. However, Sullivan discloses that its system may be divided among multiple computers at separate nodes of the network which communicate with each other." Examiner then states, "Sullivan fails to disclose a payment processing gateway, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and second party..." Examiner then relies upon Agee et al. as disclosing this element missing from Sullivan. Examiner then states, "Sullivan fails to disclose that the tax system receives transaction data from the payment processing gateway." Examiner then relies upon Agee et al. as disclosing, "the tax system receives transaction data from the payment processing gateway." In responding to Applicants' arguments of record, Examiner states, "However, note that if one considers the gateway to be the third-party service provider 62 system of Agee, one gets Applicants' configuration in Agee. The third-party service provider receives information from the merchant, transmits, information to the tax system, receives information back from the tax system, and then may process payments in conjunction with the financial system. The other gateway in Agee (the one labeled as a gateway) may even be bypassed, further solidifying the comparison with Applicant's invention. Note that in light of Applicant's specification, the third party service provider 62 system of Agee may be considered to be a gateway due to its function of facilitating payment." Insofar as it may apply to the present claims, this rejection is traversed.

Examiner points to various of the alternative embodiments disclosed by Agee et al. in combination with the main embodiment of Sullivan et al. Examiner infers that the gateway and third party service provider are interchangeable and, based upon that assumption, rejects the instant claims as being obvious. Examiner argues Agee et al. (FIG. 7B; paragraphs [0084], [0086]) discloses an embodiment wherein the Gateway (62) is bypassed and the Merchant communicates directly with the Third Party Service Provider, which communicates with a Tax Service Provider. This is the primary embodiment Examiner relies upon in rejecting the instant claims.

Applicants note that the instant claims cover a specific combination of structural, logical and functional elements that together comprise the invention. Applicants respectfully submit that the prophetic combination of the disclosures of Sullivan et al. and Agee et al. fails to suggest the invention as claimed.

Applicants' prior comments of record are equally applicable here as well. Applicants agree with Examiner that Agee et al., in fact, places the tax payment system (the third party service provider) as an intermediary between the buyer and the seller. That is a key distinction from the instantly claimed system. In all embodiments (FIGS. 1B, 2B, 3B, 3D, and 7B; Para. [0053], [0055], [0058], [0072], [0084], [0086]), wherein Agee et al. discloses a "payment processing gateway" in combination with a "third party service provider" (the tax system), the information and data transmission pathways go from the merchant to the payment processing gateway to the third party service provider and then outward to the financial network. In no instance, does the payment processing gateway of Agee et al. communicate directly with the financial network whenever the "third party service provider" is present.

Applicants acknowledge that Sullivan et al. fails to disclose wherein the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other, fails to disclose a payment processing gateway, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and second party, and fails to disclose that the tax system receives transaction data from the payment processing gateway.

Applicants respectfully submit that the disclosure of Agee et al. fails to provide what Sullivan et al. is missing. Examiner appears to be improperly extending his analysis beyond the scope of disclosure of Agee et al. Agee et al. repeatedly identify the Gateway and Third Party Service Provider separately and distinctly from one another. In no instance does Agee et al. disclose that the functions performed by the gateway can be included in the third party service provider. In each case, Agee et al. only disclose that the gateway "may be bypassed" ([0070], [0083]-[0085], [0044], [0055]). Agee et al. do not disclose that the functions of the gateway can be incorporated into the third party service provider. In no instance does Agee et al. disclose that the functions of the gateway and third party service provider are interchangeable, as inferred by Examiner.

In particular, Examiner assumes that the Third Party Service Provider of Agee et al. can be considered to be a gateway of the instant invention because of the way the gateway is described in the instant specification. In such a prophetic embodiment, the Tax Service Provider of Agee et al. must necessarily possess the structure, logic and function of a combination of the three remaining elements in the claim: a transaction client logic engine, a third party fee calculation client logic engine, and a third party fee fulfillment client logic engine. However, that is not the case. The Tax Service Provider of Agee et al. does not possess all of the logic and function of the remaining three client logic engines of the instant invention. So, Examiner's prophetic embodiment, wherein the Third Party Service Provider can be considered a Gateway, would result in an inoperable embodiment of the invention.

Applicants note that Agee et al. does not provide a clear description of the function and features of the third party service provider. The only relevant disclosure states the third party service provider "forwards the information to a computer 64A at a tax service provider 64 for determination of allocation of tax funds to various taxing entities" (para [0084]). In that embodiment, the (i) payment gateway; (ii) third party service provider; and (iii) tax service provider are three distinct entities, each with its own function(s) and feature(s), and the third party service provider is still in direct communication with the financial network.

Applicants have already noted that the third party service provider of Agee et al. must be in direct communication with the financial network. That is true regardless of whether or not the gateway of Agee et al. is present. Accordingly, when the gateway of Agee et al. is bypassed as relied upon by Examiner, the third party service provider of Agee et al. still remains in direct communication with the financial network. On the other hand, the instant third party service provider is not in direct communication with the financial network.

With regard to claim 21, Examiner acknowledges that Sullivan et al. does not disclose or suggest "wherein the tax system components are divided in the manner specified in claim 21" and then argues that Sullivan discloses division of the logic engines of its system and relies upon Agee et al. as suggesting that "the third party service provider 62 system can be regarded as a payment processing gateway." Applicants' comments above are equally applicable. Moreover, Sullivan et al. does not disclose or suggest a transaction client logic engine that is "adapted to receive from a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds and to transmit said one or

more information data packets to the payment processing gateway.” This is because the third party service provider of Agee et al. transmits the data directly to the financial network rather than back to the payment processing gateway.

With regard to claim 22, Applicants’ comments above are equally applicable. The prophetic combination of Sullivan et al. and Agee et al. fails to suggest a third party fee calculation client logic engine wherein said logic engine receives “one or more information packets from a transaction client logic engine, said one or more information packets from the transaction client logic engine having been transmitted to the transaction client logic engine by a payment processing gateway” and transmits “to the transaction client logic engine, to a third party fee fulfillment client logic engine, or to a payment processing gateway a transaction data information packet including said third party fees owed.” The system of Sullivan et al. fails to disclose the specified pathway and information content.

With regard to claim 23, Applicants’ comments above are equally applicable. The prophetic combination of Sullivan et al. and Agee et al. fails to suggest such a logic engine wherein said logic engine “determines the third party fees owed on a transaction between the first and the second party; provides authorization and fulfillment data for the third party fees owed on the transaction between the first and the second party; and transmits to a payment processing gateway or the transaction client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds.” The system of Sullivan et al. fails to disclose the specified pathway and information content.

Accordingly, Sullivan does not disclose the invention as claimed. Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

In view of all the foregoing, Applicants respectfully submit that they have made a diligent effort to place the application in form for allowance. An early notice thereof is respectfully requested.

Respectfully submitted,

Date: July 27, 2009  
Innovar, L.L.C.  
P.O. Box 250647  
Plano, TX 75025-0647  
Ph.: 972-747-7373  
Fax: 972-747-7375

/RICK MATOS/  
Rick Matos  
Registration No. 40,082  
Agent for Applicant  
Email: innovarllc@sbcglobal.net